

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/081,864	LUKYANOV ET AL.	
	Examiner Hope A. Robinson	Art Unit 1653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 5/12/05.
2.  The allowed claim(s) is/are 1-3,6-9,16,21-23,35-38 and 40.
3.  The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

**EXAMINER'S AMENDMENT**

1. An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. Authorization of this Examiner's amendment was given in a telephone interview with Mr. Bret Field on May 27, 2005.

3. The Claims have been amended as follows:

Please cancel claims 4-5, 15, 24-27, 32, 34 and 39.

Claim 1 (Currently Amended) A nucleic acid present in other than its natural environment that encodes a non-aggregating chromo- or fluorescent mutant of an aggregating *Cnidarian* chromo- or fluorescent protein or mutant thereof, wherein said non-aggregating chromo- or fluorescent mutant comprises a mutation in at least one residue in the N-terminal region [[residue of]] at any of the positions 2, 3, 4, 5, 6, 7, 8, 9 or 10 of said chromo- or fluorescent mutant which is encoded by the nucleotide sequences set forth in SEQ ID NOS:14, 15, 17, 19, 21, and 23.

Claim 21 (Currently Amended) A nucleic acid present in other than its natural environment that encodes a non-aggregating chromo- or fluorescent mutant of an aggregating *Cnidarian* chromo- or fluorescent protein or mutant thereof, wherein said

non-aggregating chromo- or fluorescent mutant comprises a mutation in at least one codon of a residue at any of the positions 2, 3, 4, 5, 6, 7, 8, 9 or 10 of said chromo- or fluorescent mutant in the N-terminal region [[residue codon]] which leads to [[wherein said mutation is]] a substitution of a threonine residue for a lysine residue, an alanine

residue for an arginine residue, or a glutamic acid residue for a lysine residue, wherein said non-aggregating chromo- or fluorescent mutant is encoded by the nucleotide sequences set forth in SEQ ID NOS:14, 15, 17, 19, 21, and 23.

#### EXAMINER'S COMMENT

4. The drawings are objected to because Figures 4, 9, 10, 12 and 13 have text that needs to be deleted. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or

"New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance. Applicant is advised to amend the specification to insert the text that appears in the above figures.

5. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance".

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hope A. Robinson whose telephone number is 571-272-0957. The examiner can normally be reached on Monday-Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon P. Weber, can be reached at (571) 272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hope Robinson, MS  
Patent Examiner  
*[Handwritten signature]*  
d31/05  
JON WEBER  
SUPERVISORY PATENT EXAMINER